

Commodity Futures Trading Commission

§ 171.28

with the provisions of § 171.23, shall perfect the appeal by filing an appeal brief with the Proceedings Clerk within thirty days after service of the record by the National Futures Association. The Commission may dismiss any appeal for which an appeal brief is not timely filed.

(b) *Contents.* Each appeal brief submitted to the Commission pursuant to this section shall include, in the order indicated:

(1) A statement of the issues presented for review;

(2) A statement of the case. The statement shall indicate briefly the nature of the case and include a full description of the action being challenged. There shall follow a clear and concise statement of all facts relevant to the consideration of the appeal with appropriate citations to the record;

(3) An argument. The argument shall contain the contentions of the appellant with respect to the issues presented and the reasons supporting those contentions. It shall cite specifically to the relevant authorities and to those parts of the record that support appellant's contentions; and

(4) A conclusion stating the precise relief sought.

(c) *Length of appeal brief.* Without prior leave of the Commission, the appeal brief may not exceed thirty five pages, exclusive of any table of contents, table of cases, index and appendix containing transcripts of testimony, exhibits, rules, regulations or similar materials.

§ 171.26 Answering brief.

(a) *Time for filing answering brief.* Within thirty days after service of the appeal brief, the National Futures Association shall file with the Proceedings Clerk an answering brief.

(b) *Contents of answering brief.* The contents of the answering brief generally shall be consistent with those set forth in § 171.25(b) but may omit a statement of the issues and a statement of the case if the National Futures Association does not dispute the issues or the statement of the case contained in the appeal brief.

(c) *Length of the answering brief.* Without prior leave of the Commission, the answering brief may not exceed thirty

five pages, exclusive of any table of contents, table of cases, index and appendix containing transcripts of testimony, exhibits, statutes, rules, regulations or similar materials.

§ 171.27 Limited participation by interested persons.

(a) Upon motion of any interested person or, on its own motion, the Commission may permit, or solicit, limited participation in the proceeding by such interested person. A motion for leave to participate in the proceeding shall be filed promptly, shall identify the interest of that person and shall show why participation in the proceeding by that person would serve the public interest. If the Commission determines that participation would serve the public interest, it shall by order establish a supplementary briefing schedule for the interested person and the parties to the proceeding.

(b) For purposes of this subsection, *interested person* shall include parties and any other persons who might be adversely affected or aggrieved by the outcome of a proceeding; their officers, agents, employees, associates, affiliates, attorneys, accountants or other representatives; and any other person having a direct or indirect pecuniary or other interest in the outcome of a proceeding.

§ 171.28 Participation by Commission staff.

The Division of Enforcement, the Division of Swap Dealer and Intermediary Oversight and the Division of Clearing and Risk or the Division of Market Oversight may participate in any proceeding by filing a notice of appearance. Such a notice shall be filed and served on or before the twentieth day following the date of service of its brief by the National Futures Association. The Commission shall by order establish a supplementary briefing schedule for the Commission staff and other parties to the proceeding. If it concludes that participation of the Commission staff will not serve the public interest, the Commission shall prohibit further participation.

[55 FR 41068, Oct. 9, 1990, as amended at 67 FR 62353, Oct. 7, 2002; 78 FR 22420, Apr. 16, 2013]